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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EQUAL EMPLOYMENT OPPORTUNITY))	CIVIL ACTION NO.
COMMISSION,)	
)	
Plaintiff,)	
)	COMPLAINT
v.)	
BOK FINANCIAL CORPORATION d/b/a))	(Demand for Jury Trial)
BANK OF ALBUQUERQUE,)	
)	
Defendant.)	
_____)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 and the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of sex and/or age and to provide appropriate relief to Elizabeth Morantes, Yolanda Fernandez, and Betty Brewer who were disciplined and/or terminated because of their sex, female and/or because of their

age, and/or because of their age plus their sex.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the “ADEA”), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the “FLSA”), as amended, 29 U.S.C. §§ 216(c) and 217.. This action is also authorized and instituted pursuant to Section 706(f)(1) and (3) and Section 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) and -6 (“Title VII”).

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of New Mexico.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 27 and by Sections 706 and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5 and 6.

4. At all relevant times, Defendant, BOK Financial Corporation d/b/a the Bank of Albuquerque (the “Employer”), has continuously been an Oklahoma corporation

doing business in the State of New Mexico and the City of Albuquerque, and has continuously had at least 20 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h) and Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. 2000e(b), (g), and (h).

FIRST CLAIM - AGE DISCRIMINATION

6. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

7. Since at least June, 2007, the Defendant Employer has engaged in unlawful employment practices at several of its locations in the city of Albuquerque, in violation of the ADEA, 29 U.S.C. § 623(a), by including, but not limited to:

(a) discharging Elizabeth Morantes for allegedly violating policy on or about

April 10, 2008, , because of her age;

(b) discharging Yolanda Fernandez on for allegedly violating policy or about

March 14, 2008, because of her age; and,

(c) disciplining Betty Brewer commencing in June 2007 and continuing until

May 2008 because of her age

(d) younger employees in the same circumstances were treated more favorably.

8. The effect of the practices complained of in paragraph 7 above has been to

deprive Elizabeth Morantes, Yolanda Fernandez and Betty Brewer of equal employment opportunities and otherwise adversely affect their status as employees because of their age.

9. The unlawful employment practices complained of in paragraph 7 above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

SECOND CLAIM FOR RELIEF: SEX DISCRIMINATION

10. More than thirty days prior to the institution of this lawsuit, Elizabeth Morantes and Yolanda Fernandez each filed a charge with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

11. Since at least June 2007, Defendant Employer engaged in unlawful employment practices at its locations in Albuquerque, New Mexico, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a) by, including, but limited to:

- (a) discharging Elizabeth Morantes for allegedly violating policy because of her sex, female;
- (b) discharging Yolanda Fernandez for allegedly violating policy because of her sex, female; and,
- (c) disciplining Betty Brewer because of her sex, female.
- (d) male employees in the same circumstances were treated more favorably.

12. The effect of the practices complained of in paragraph 11 above has been to deprive Elizabeth Morantes, Yolanda Fernandez, and Betty Brewer of equal employment opportunities and otherwise adversely affect their status as employees, because of their

sex.

13. The unlawful employment practices complained of in paragraph 11 above were intentional.

14. The unlawful employment practices complained of in paragraph 11 above were done with malice or with reckless indifference to the federally protected rights of Ms. Morantes, Ms. Fernandez, and Ms. Brewer.

THIRD CLAIM FOR RELIEF: AGE PLUS SEX

15. The preceding allegations of the Complaint are incorporated by reference here as though fully set forth.

16. By the conduct described above in paragraphs 7 and 11, Defendant Employer engaged in unlawful employment practices in violation of both the ADEA and Title VII by disciplining and/or discharging Ms. Morantes, Ms. Fernandez, and Ms. Brewer because they are women over 40 years of age. Younger, male employees were treated more favorably.

17. The effect of the practices complained of in paragraphs 7 and 11 above has been to deprive Elizabeth Morantes, Yolanda Fernandez, and Betty Brewer of equal employment opportunities and otherwise adversely affect their status as employees, because of their sex and age.

18. The unlawful employment practices complained of in paragraphs 7 and 11 above were intentional.

19. The unlawful employment practices complained of in paragraphs 7 and 11 above were done with malice or with reckless indifference to the federally protected

rights of Ms. Morantes, Ms. Fernandez, and Ms. Brewer.

20. The unlawful practices complained of in paragraph 7 above were willful.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from engaging in discrimination, including discharges and discipline, based on age and/or sex, and/or sex plus age.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for women over 40 years of age, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Ms. Morantes and Ms. Fernandez by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including reinstatement or front pay in lieu of reinstatement.

D. Order Defendant Employer to make whole Ms. Morantes, Ms. Fernandez, and Ms. Brewer, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 and 11 above, including job search expenses, medical expenses, and other pecuniary losses, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Ms. Morantes, Ms. Fernandez, and Ms. Brewer, by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraph 11 set forth in above, including emotional pain and suffering, mental anguish, loss of enjoyment of life, injury to character, reputation, anxiety, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employer to pay Ms. Morantes, Ms. Fernandez, and Ms. Brewer punitive damages for its malicious and reckless conduct described in paragraph 11 above, in amounts to be determined at trial.

G. Grant a judgment requiring Defendant Employer to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to Elizabeth Morantes and Yolanda Fernandez for the violation of the ADEA.

H. Grant such further relief as the Court deems necessary and proper in the public interest.

I. Grant such further relief as the Court deems necessary and proper in the public interest.

J. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this 27th day of December, 2011.

P. DAVID LOPEZ
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